

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JASON HALPERN,

Plaintiff,

v.

GARY THARALDSON,

Defendant.

Case No. 2:15-cv-02037-JCM-PAL

ORDER

Presently before the court is plaintiff Jason Halpern's motion to reconsider. (ECF No. 75). No response was filed, and the period to do so has since passed.

"A district judge may reconsider any pretrial matter referred to a magistrate judge in a civil or criminal case under LR IB 1-3, when it has been shown the magistrate judge's order is clearly erroneous or contrary to law." LR IB 3-1(a). The district judge may affirm, reverse, or modify, in whole or in part, the magistrate judge's order, as well as remand with instructions. LR IB 3-1(b).

In the instant motion, plaintiff requests that the court reconsider the magistrate's order (ECF No. 74) denying plaintiff's motion for leave to file a surreply (ECF No. 71). (ECF No. 75). Plaintiff argues that the magistrate judge's order must be reversed because it failed to provide any rationale, is clearly erroneous and contrary to law, and neglects to rule on the alternative relief for oral argument requested. (ECF No. 75 at 4). The court disagrees.

The magistrate judge found that plaintiff failed to show good cause for filing a surreply. (ECF No. 74). In particular, the magistrate judge found as follows:

1 [I]t is an attempt to get in the last word on the merits of the motion for summary
2 judgment which has generated another round of unnecessary briefing.
3 Defendant's reply argues why the expert opinions provided in Mr. Friedman's
4 affidavit in defendant's opposition to the motion for summary judgment should
not be considered because they contradict his deposition testimony, are based on
inadmissible evidence, are not based on personal knowledge, ignore undisputed
facts, and consist of improper legal opinions.

5 (ECF No. 74). The magistrate judge's order was not clearly erroneous or contrary to law as a
6 party seeking leave to file supplemental pleadings must show good cause. *See* LR 7-2(g).
7 Further, "[s]urreplies are not permitted without leave of court; motions for leave to file a surreply
8 are discouraged." LR 7-2(b).

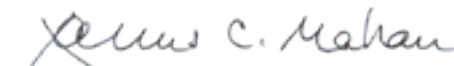
9 Furthermore, plaintiff's request for oral argument in the alternative was improper and not
10 properly before the court. More specifically, LR 78-1 provides that "[a]ny party making
11 or opposing a motion who believes oral argument may assist the court and wishes to be heard
12 may request a hearing by inserting the words ORAL ARGUMENT REQUESTED below the title
13 of the document on the first page of the motion or response." LR 78-1.

14 In light of the foregoing, the court will deny plaintiff's motion to reconsider and affirm
15 the magistrate judge's order in its entirety.

16 Accordingly,

17 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiff's motion to
18 reconsider (ECF No. 75) be, and the same hereby is, DENIED.

19 DATED THIS 24th day of February, 2017.

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22 JAMES C. MAHAN
23 UNITED STATES DISTRICT JUDGE
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